

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

**BENNY HODGE,** )  
 )  
**Plaintiff,** )  
 )  
v. )  
 )  
**TERMINIX GLOBAL HOLDINGS,** )  
**INC., et al.,** )  
 )  
**Defendants.** )

**No. 3:21-cv-00690**

## **ORDER**

Despite being granted an extension until March 7, 2023 to file objections to the Report and Recommendation (“R&R”) (Doc. No. 74), Benny Hodge filed none. Instead, on the due date, he filed a “Motion Seeking Leave to Amend Complaint” (Doc. No. 77). In it, he suggests that he should be allowed to amend his complaint “as a matter of course under Rule 15(a).” (Id. at 2). However, Hodge has previously filed an Amended Complaint (Doc. No. 60) and he is not entitled to another opportunity to amend as of right. Nor will the Court grant him leave to amend his complaint under Rule 15(b) of the Federal Rules of Civil Procedure because his request comes far too late in the proceedings. Defendants have twice-moved to dismiss, and the R&R recommends that their efforts finally be granted.

Turning to the R&R, the Magistrate Judge recommends Hodge's Amended Complaint be dismissed for failure to state a claim under Rule 12(b)(6). Specifically: (1) Hodge did not show that he exhausted his administrative remedies as required for a Title VII claim; (2) Terminix is not a state actor and did not act under color of state law for purposes of Section 1983 when it terminated his employment; (3) Hodge's conspiracy claims failed because of the intracorporate conspiracy doctrine;

(4) any Equal Pay Act claim failed because Hodge did not show pay discrimination on the basis of his sex; and (5) his human and indigenous peoples rights claim failed because the United Nation's Universal Declarations relating to Human Rights and Indigenous People do not create judicially-enforceable causes of action.

Having considered the matter *de novo* as required by Rule 72, the Court agrees with all of those conclusions for the reasons stated in the R&R. Accordingly, the Court rules as follow:

- (1) The R&R (Doc. No. 74) is **ACCEPTED** and **APPROVED**;
- (2) Hodge's Motion to Amend (Doc. No. 77) is **DENIED**;
- (3) Defendants' Motions to Dismiss (Doc. Nos. 25, 27, 29, 39, 61) are **GRANTED**; and
- (4) This case is hereby **DISMISSED WITH PREJUDICE**.

The Clerk of the Court shall enter a final judgment and close this case.

IT IS SO ORDERED.



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WAVERLY D. CRENSHAW, JR.  
CHIEF UNITED STATES DISTRICT JUDGE